Supreme Court, U. S.
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IN THE

Supreme Court of the United States

October Term, 1979

No. .....
79-1431

CLARENCE ELDON FREEMAN,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1979

No. .....

CLARENCE ELDON FREEMAN,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

To the Honorable Chief Justice and Associate Justices of the Supreme Court of the United States:

Clarence Eldon Freeman respectfully prays that a writ of certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Ninth Circuit entered

in this proceeding on November 21, 1979.

OPINION BELOW

The unreported opinion of the Court of Appeals appears in the Appendix to this petition. No opinion was rendered by the District Court for the Central District of California.

JURISDICTION

The judgment of the Court of Appeals for the Ninth Circuit was entered on November 21, 1979. A timely petition for rehearing *en banc* was denied on February 13, 1980, and this petition for a writ of certiori was filed within 30 days of that date. This Court's jurisdiction is invoked under 28 U.S.C. § 1254(1).

QUESTIONS PRESENTED

1. Whether a bookmaker's acceptance of "lay-off" bets is sufficient to make him a person who "conducts" a gambling business in conjunction with the person placing those bets, within the meaning of 18 U.S.C. § 1955.

2. Whether the inclusion of "lay-off" sources as persons "conducting" gambling businesses within the meaning of § 1955 makes the statute unconstitutionally vague, as applied here, for failing to give adequate notice of its scope.

STATUTORY PROVISIONS INVOLVED

United States Code, Title 18:

§ 1955. Prohibition of Illegal Gambling Businesses:

"(a) Whoever conducts, finances, manages, supervises, directs, or owns all or part of an illegal gambling business shall be fined not more than $20,000 or imprisoned not more than five years, or both.

"(b) As used in this section–

"(1) 'illegal gambling business' means a gambling business which–

"(i) is a violation of the law of a State or political subdivision in which it is conducted;

"(ii) involves five or more persons who conduct, finance, manage, supervise, direct, or own all or part of such business; and

"(iii) has been or remains in substantially continuous operation for a period in excess of thirty days or has a gross revenue of $2,000 in any single day.

"(2) 'gambling' includes but is not limited to pool-selling, bookmaking, maintaining slot machines, roulette wheels or dice tables, and conducting lotteries, policy, bolita or numbers games, or selling chances therein.

"(3) 'State' means any State of the United States, the District of Columbia, the Common-

wealth of Puerto Rico, and any territory or possession of the United States."

STATEMENT OF THE CASE

It was stipulated in the District Court that Clarence Eldon Freeman was overheard engaging in telephone conversations with co-defendants Bergen and Kail and that, based upon those conversations, special agent Francis Cross would testify that it was his expert opinion that:

> " . . . defendant Freeman was a 'lay-off' source for Bergen's bookmaking operations. He manages as well a separate gambling operation. Bergen used both Freeman and Gary Hallman as sources for 'lay-off wagering.' 'Lay-off wagering,' an integral part of a bookmaking business, is rebetting with another gambling operation on heavily bet games or horse races in order to create what the bookmaker feels is a favorable balance of wagering and in order to reduce the possibility of substantial loss."

It was further stipulated that Clarence Eldon Freeman, if called and sworn, would testify that he had known Seymour Bergen for two and one-half years but had not met any of the other members of the alleged gambling business prior to indictment. Further, Freeman would have admitted that he accepted bets from Bergen several times during July and August of 1975, but did not do so on a daily basis or tell Bergen that he would accept any bets that Bergen did not want. It was further stipulated that Freeman would testify that he sometimes

refused to accept bets from Bergen.

It was stipulated that Freeman would have testified that he did not know that Bergen was involved with others in a bookmaking operation, but that he believed that Bergen was betting for himself or for a friend. It was stipulated that Freeman would have testified that he thought that three or four of Bergen's bets were bets that Bergen had accepted but did not want to keep.

Finally, it was stipulated that Freeman would have testified that he did not subscribe to scratch sheets, sports publications, or information services, but that his sole sources of information regarding betting odds and "lines" were the Los Angeles Times and Seymour Bergen.

REASONS FOR GRANTING THE WRIT

1. The Decision Below, To The Extent That It Upholds The § 1955 Conviction Of A "Lay-Off" Source, Conflicts With The Decisions Of The Fifth And Sixth Circuits In *United States v. Box*, 530 F.2d 1258 (5th Cir. 1976), And *United States v. Leon*, 534 F.2d 667 (6th Cir. 1976).

The issue presented here is whether the acceptance of "lay-off"[1] bets makes their acceptor a member of the bettor's gambling organization within the meaning of § 1955.

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[1] "When betting action becomes heavy on one side, the bookmaker uses three principal devices to bring the betting volume into parity. He may refuse to accept bets on the heavy side hoping that continued betting on the other side will bring the game into balance. He may adjust the line making the underbet

Section 1955 makes a federal crime the association of five or more persons who "conduct, finance, manage, supervise, direct, or own all or part of an illegal gambling business." Persons who play an integral part in the maintenance of an illegal gambling business "conduct" that business within the meaning of § 1955. *United States v. Sacco*, 491 F.2d 995 (9th Cir. 1974).

While there seems to be no dispute among the Circuits that § 1955 applies to such persons as doorkeepers, *United States v. Mattucci*, 502 F.2d 883 (6th Cir. 1974), watchmen, card dealers, *United States v. Harris*, 460 F.2d 1041 (5th Cir. 1972), and street runners, *United States v. Riehl*, 460 F.2d 454 (3rd Cir. 1972), there is a clear conflict among the Circuits as to whether the acceptance of "lay-off bets" is sufficient to make the person accepting those bets a person who "conducts" a gambling business in conjunction with the person placing the bet.

In *United States v. Box*, 530 F.2d 1258 (5th Cir. 1976), and *United States v. Leon*, 534 F.2d 667 (6th Cir. 1976), the Fifth and Sixth Circuits held that the acceptance of lay-off bets alone could not support the conviction of the person accepting those bets as one who "conducts" a gambling enterprise in conjunction with the person placing the bets. According to the *Box* court, evidence that a person has accepted lay-off bets will not support his or her conviction under § 1955 unless other

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(cont'd) side a more attractive wager. More probably, however, particularly if game time is near, the bookmaker will bet the excess with another bookmaker. Known as a 'lay-off' bet this wager is placed as if the laying-off bookmaker is betting and he must make the wager at the second bookmaker's line and must pay the prevailing profit if he loses." United States v. Baker, 589 F.2d 1008, 1013 n. 9 (9th Cir. 1979).

facts are shown. The factors that could support the conviction of a person accepting lay-off bets are:

> "Evidence that the individual provided a regular market for a high volume of such bets, or held himself out to be available for such bets whenever bookmakers need to make them; evidence that the individual performed any other substantial service for the bookmaker's operation, as for example, in the supply of line information; or evidence that the individual was conducting his own illegal gambling operation and was regularly exchanging lay-off bets with other bookmakers."
>
> *United States v. Box, supra*, 530 F.2d at 1266.

See also *United States v. Leon, supra* (exchange of line information as well as bets is not sufficient to show the requisite concert of purpose required by § 1955); *United States v. Campion*, 560 F.2d 751 (6th Cir. 1977) (limited exchange of information and bets does not suggest the "significant or sustained impact upon the gambling enterprise" required by § 1955); *United States v. Gezek*, 527 F.2d 552, 557-58 (8th Cir. 1975).

In contrast, the Fourth, Seventh and Ninth Circuits have held those who accept lay-off bets to be included within the ambit of § 1955. *United States v. George*, 568 F.2d 1064 (4th Cir. 1978); *United States v. McHale*, 495 F.2d 15 (7th Cir. 1974); and *United States v. Sacco, supra*. The evidence presented here—that Clarence Freeman accepted lay-off bets from Seymour Bergen—would

thus sustain Freeman's conviction in at least three Circuits while being insufficient in two others. The evidence of Freeman's involvement with Bergen did not show any of the factors listed in *Box* as supportive of a § 1955 conviction of a person who accepts lay-off bets. There was no evidence that Freeman provided a regular market for a high volume of lay-off bets, or that he held himself out to be available for such bets whenever Bergen needed to make them, or that he performed any other substantial service for Bergen–such as supplying line information, or that he conducted his own illegal gambling operation and was regularly exchanging lay-off bets with other bookmakers. Freeman, like Box, was not shown by the evidence to be anything more than a lay-off source for a bookmaker. He was not shown to be engaged in the *same* business as Bergen, *United States v. Schaefer*, 510 F. 2d 1307, 1315 n. 4 (8th Cir. 1975) (Lay, J., dissenting), and his conviction should therefore have been reversed.

"Gambling," said the Fifth Circuit in *Box*, "becomes a federal offense only when a person is charged with more than betting, and evidence that a person accepted lay-off bets, without more, is insufficient to expel that person from section 1955's sanctuary of bettordom." *United States v. Box, supra*, 530 F.2d at 1267. The decision here is in conflict with the Fifth Circuit's decision in *Box* and unduly expands the scope of § 1955. A writ of certiorari should therefore issue to review the decision in this case.

2. Section 1955 Is Unconstitutionally Vague As Applied, In Violation Of The Due Process Clause, For Its Application For Persons Who "Conduct" Gambling Businesses Does Not Sufficiently Inform Gamblers That It Applies To Those Who Accept "Lay-Off" Bets.

A basic principle of due process requires "that a criminal statute must give clear warning of the conduct that it makes a crime . . . . " *Bouie v. Columbia*, 378 U.S. 347, 350-51 (1964).

> "The constitutional requirement of definiteness is violated by a criminal statute that fails to give a person of ordinary intelligence fair notice that his contemplative conduct is forbidden by the statute. The underlying principle is that no man shall be held criminally responsible for conduct which he could not reasonably understand to be proscribed."
>
> *United States v. Harriss*, 347 U.S. 612, 617 (1954).

Here, § 1955 applies to persons who "conduct" gambling businesses. It does not, on its face, apply to persons who accept lay-off bets from gambling businesses. Thus, the Fifth Circuit held in *United States v. Box, supra*, that § 1955 does not apply to lay-off sources. The Ninth Circuit, on the other hand, has held to the contrary. Here, and in other cases, the Ninth Circuit has sustained the convictions of lay-off sources as persons who "conduct" gambling businesses within the meaning of § 1955.

The strained construction of § 1955 by the Ninth Circuit does violence to the words of the statute as well as the due process laws. The statute applies to persons

who "conduct" gambling businesses and *not* to those who accept bets from them. To apply it to those who accept lay-off bets makes it "a statute which . . . forbids . . . the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application," and, thus, one which violates the due process laws. *Connally v. General Construction Co.*, 269 U.S. 385, 391 (1926).

The construction of § 1955 by the Ninth Circuit, unlike that of the Fifth Circuit in *Box*, makes the statute unconstitutional as applied. It allows speculation as to the statute's scope, a result which cannot be tolerated:

> "No one may be required at peril of life, liberty or property to speculate as to the meaning of penal statutes. All are entitled to be informed as to what the State commands or forbids."
>
> *Lanzetta v. New Jersey*, 306 U.S. 451, 453 (1939); *Bouie v. Columbia, supra*, 378 U.S. at 351.

CONCLUSION

For the reasons set forth above, a writ of certiorari should issue to review the judgment and opinion of the Court of Appeals for the Ninth Circuit.

Respectfully submitted,

BURTON MARKS

Counsel for Petitioner

APPENDIX

APPENDIX

OPINION OF THE COURT BELOW

In the United States Court of Appeals for the Ninth Circuit.

UNITED STATES OF AMERICA, Plaintiff-Appellee

versus

EDWARD KAIL, Defendant-Appellant
- No. 78-1633;

SEYMOUR BERGEN, Defendant-Appellant
- No. 78-1643;

RUSSELL CALLAHAN, Defendant-Appellant
- No. 78-1772;

CLARENCE ELDEN FREEMAN, Defendant-Appellant
- No. 78-1677.

[Filed November 21, 1979]

Appeal from the United States District Court for the Central District of California

Before: WALLACE and TANG, Circuit Judges, and BATTIN,* District Judge

TANG, Circuit Judge.

The defendants, Edwin Kail, Seymour Bergen, Russell Callahan, and Clarence Freeman, together with two persons

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*Honorable James F. Battin, United States District Judge for the District of Montana, sitting by designation.

unnamed as defendants, were indicted on one count of conducting a gambling business, in violation of 18 U.S.C. § 1955. Bergen was also indicted on a second count, interstate transmission of wagering information in violation of 18 U.S.C. §§ 1084 and 2. After they unsuccessfully moved to suppress evidence obtained by wiretaps, the defendants consented to be tried on a stipulation of facts and were found guilty on all counts. They now appeal, raising numerous issues but primarily emphasizing the legality of the wiretap. We affirm the convictions.

I

On July 29, 1975, the Government received authorization to intercept wire communications from six telephone numbers that were subscribed to by three of the defendants. The indictment was not returned against the defendants until November 1977. Consequently, Bergen and Kail first contend that the indictment should have been dismissed because of preindictment delay.

Preindictment delay does not implicate the speedy trial guarantee of the sixth amendment, although in some instances it might violate the due process clause of the fifth amendment. *United States v. Marion*, 404 U.S. 307 (1971); *United States v. Lovasco*, 431 U.S. 783 (1977). The due process test for impermissible preindictment delay requires a delicate balancing of the circumstances of each case. *Arnold v. McCarthy*, 566 F.2d 1377, 1383 (9th Cir. 1978). Primarily, the court must compare the gravity of the actual prejudice to the reasons for the delay. *Id.; see Lovasco*, 431 U.S. at 79.

Bergen and Kail conclusively alleged that they have

been prejudiced by the loss of memory due to time and by the loss of possible witnesses to their activities. They do not, however, specify what they might have forgotten or who are the possible witnesses that they were unable to secure. Nor do they allege that the Government delayed bringing the indictment to obtain a tactical advantage. In these circumstances, their due process claim is unsubstantial. *Arnold*, 566 F.2d at 1383-85.

II

Pursuant to the provisions of Title III of the Omnibus Crime Control and Safe Streets Act of 1968, 18 U.S.C. §§ 2510-20, government agents obtained an order authorizing the interceptions of telephone communications by the defendants. The defendants raise a variety of reasons why the wiretap order was illegal. None are meritorious.

A. The Constitutionality of 18 U.S.C. § 2518.

The defendants argue that the procedure specified in § 2518 for obtaining a wiretap is unconstitutional. This argument has previously been rejected by the court. *United States v. Turner*, 528 F.2d 143 (9th Cir. 1975), *cert. denied*, 429 U.S. 837 (1976).

B. Alleged Misrepresentations in the Affidavit.

The Government's application for a wiretap was supported by the lengthy affidavit of FBI agent Darrell Shaver. In paragraph 45 of the affidavit, Shaver averred that confidential informants stated that even if they were

immunized and given protective custody they would be unwilling to testify at any proceedings for fear of their safety. In the district court, Bergen offered to prove that an informant, Gary Hallman, had never been asked to testify, but if asked, would have testified, although reluctantly. The defendants thus contend that the offer of proof exhibited a material misrepresentation in the Shaver affidavit, warranting invalidation of the wiretap order.

Assuming that Hallman was one of the confidential informants referred to in the affidavit, the defendants have not persuaded us that there were material misrepresentations in Shaver's affidavit. The fact that Hallman was admittedly unwilling to testify demonstrates that any misrepresentation in the affidavit was not material. Furthermore, there were seven confidential informants mentioned by Shaver in the affidavit.

C. The Requirements of § 2518(1)(c).

To show the necessity for a wiretap, the application must include a full and complete statement as to whether other investigative procedures have been tried and failed or why they reasonably appear to be unlikely to succeed if tried or would be too dangerous. 18 U.S.C. § 2518(1)(c). *See, e.g., United States v. Martinez*, 588 F.2d 1227, 1231 (9th Cir. 1978). The defendants contend that the Shaver affidavit lacked sufficient particularity to meet this requirement of necessity.[1]

[1]Despite the defendants' lengthy arguments concerning our prior discussions of § 2518(1)(c), we decline to retrace the lines drawn in the numerous decisions of the court. See United States v. Baker, 589 F.2d 1089, 1091 (9th Cir. 1979).

Viewing, as we must, the affidavit as a whole, *id.*, we find that the Shaver affidavit did not consist of bald, conclusory statements, but instead provided sufficient particularized detail to demonstrate the need for a wiretap in the discrete circumstances of this case. The lengthy Shaver affidavit describes in considerable detail the history of the three-month investigation of the bookmaking operation prior to the application for the wiretap. Besides the personal observations of the government agents, the affidavit discloses the substance of information obtained from seven confidential sources, each of whose reliability is documented. Each source had some contact with either Bergen, Callahan, or Kail involving gambling in some way. The sources revealed that Bergen operated a large bookmaking business. They described Kail as the "back office" clerk of Bergen's Los Angeles operation, and Callahan as Bergen's Palm Springs agent who "settles-up" when he is in Los Angeles. Through both their sources and personal observations, the government agents were able to learn names, dates, and locations of the gambling operations.

Despite the success of the investigation using normal investigative techniques, the affidavit pointed out the deficiencies and limitations of the investigation. No one interviewed knew more than two participants in the operation. Additionally, Bergen changed the manner of operations, such as telephone numbers and methods of payment and collection, because he learned of the FBI surveillance from persons interviewed by the FBI. As a result, the information obtained from those interviewed became stale, and the possibility that Bergen would avoid detection increased. The agents also undertook physical surveillance of the persons

named in the application and noted some contacts among the principals, but surveillance was generally unsuccessful in fully establishing the elements of the offense. The affidavit further described the reluctance of informants to testify, the futility of infiltration, and the limitations of employing telephone toll records in uncovering the nature of Bergen's operation. In short, the affidavit enabled the court to ascertain that the application was not intended to be used as a first step in the investigation, but an alternative that was necessary because of the limitations that the agents had encountered when using normal investigative techniques. *See United States v. Spagnuolo,* 549 F.2d 705, 710 (9th Cir. 1977).

Although the affidavit was not as detailed with respect to Callahan when compared with its description of Bergen and Kail, the affidavit read as a whole established the futility of using normal investigative procedures for all of the principals. "A particularized showing . . . may be established . . . not only by a minutia of detail discretely directed, but by persuasive facts pertaining in common to all of the principals and their telephones." *United States v. Baker,* 589 F.2d 1008, 1012 (9th Cir. 1979). Such was the case here.

D. Prior Conversations.

Callahan contends that the failure to set forth previous interceptions of his conversations violated § 2518(1)(e). Section 2518(1)(e) requires that the application set forth a statement concerning all previous applications, not interceptions, known to the person making the present application. By disclosing in paragraph

55 of the affidavit that he was aware that there had been previous applications for wiretaps of Callahan's phones, Shaver complied with § 2518(1)(e). As Callahan concedes, Shaver did not have to disclose all previous interceptions of Callahan's conversations. *See United States v. Florea,* 541 F.2d 568, 576 (6th Cir. 1976), *cert. denied,* 430 U.S. 945 (1977).

III

After obtaining the wiretap order, government agents installed a pen register to learn the telephone numbers that were dialed on the monitored telephones. They did not obtain authorization to use this device. The defendants contend that a separate order was necessary to allow the government to use the pen register in conjunction with the wiretap.

Because pen registers do not intercept the contents of communications, they are not within the scope of Title III, *United States v. New York Tel. Co.,* 434 U.S. 159 (1977), and therefore, to install a pen register, the Government need not show compliance with Title III requirements. *See United States v. Falcone,* 505 F.2d 478, 482 (3rd Cir. 1974), *cert. denied,* 420 U.S. 955 (1975).

This does not mean that no authorization for the use of pen registers is required. However, once a valid wiretap order has been issued, as here, there need not be separate authorization for the pen register. *Id.* It is already possible to decipher the telephone numbers of outgoing calls by the use of a wiretap and tape recorder. The pen register, by automatically translating electrical impulses into the numbers dialed, avoids the need to interpret what has been recorded from the wiretap. This mechanical refinement provided by

the pen register is thus comprehended within the terms of the wiretap order, making separate authorization unnecessary. *Id.* If, as defendants argue, the Government must support the use of the pen register by a showing of probable cause that showing is met by satisfying the probable cause requirements for obtaining the wiretap, *see New York Telephone Company*, 434 U.S. at 168-69.

IV

In support of his motion to suppress the information obtained by the wiretaps, Callahan argued that statements contained in the Shaver affidavit were derived from wiretaps, subsequently found illegal, that were made in connection with the Vicki Balos case. In response, Shaver filed an affidavit stating that none of the statements pertaining to Callahan were derived from the Balos wiretaps. After a post-trial *Alderman (Alderman v. United States*, 394 U.S. 165 (1969)) hearing, the district court found that the Government had sustained its burden of showing that the affidavit was not derived from illegal wiretap.

The district court's finding was not clearly erroneous. Shaver explicitly denied that his information was derived from the illegal wiretap. Other than asserting the existence of the Balos wiretap, Callahan provided no evidence to demonstrate that the Shaver affidavit was tainted. The district court reasonably relied on Shaver's affidavit disclaiming that his information was tainted.

V

In connection with his request for an *Alderman* hearing, Callahan moved on the day before trial for

discovery of various items, including access to the affidavit requesting the Balos wiretap and recordings of Balos interceptions; the Government's files in the Balos prosecution; names and address of all persons monitored in the Balos wiretap or with knowledge of the wiretap; and access to the Government's file in his case. The court held an *Alderman* hearing and allowed discovery of the Balos affidavit and transcripts of some of the interceptions. Callahan nevertheless contends that the district court unreasonably restricted his access to discovery.

Even if a defendant makes a preliminary showing of taint, he is not entitled to unlimited access to Government files; the extent of discovery is left to the discretion of the district court. *Alderman*, 394 U.S. at 185. There was no abuse of discretion in this case.

In November the district court issued an order that a hearing would be held if there were contested discovery matters. The parties stipulated that no hearing was necessary because there were no contested discovery matters. Callahan did not make his request for discovery until January 20, 1978, one working day before trial. Like the district court, we find it inconceivable that the defendant was not aware of the Balos action much earlier. Despite the untimeliness of Callahan's request, the district court allowed limited discovery. Particularly in view of the fact that Callahan provided no specific evidence of taint, we find that the district court's handling of Callahan's discovery request to be reasonable.

VI

The defendants, without citation of authority,

contends that 18 U.S.C. § 1955 is unconstitutional because it overreaches Congress' powers under the Commerce Clause. This precise contention was rejected in *United States v. Sacco*, 491 F.2d 995 (9th Cir. 1974) (en banc).

VI [*sic*]

Finally, Feldman [*sic*] contends that the evidence was insufficient to prove that he committed a violation of § 1955.

The two stipulations, supplemented by the Government's exhibits of the wiretap transcripts, revealed that on nine or ten occasions Freeman accepted bets from Bergen. Although Freeman believed that some of these bets were for Bergen's personal account, it appears that Freeman was being regularly used as a lay-off source for the Bergen bookmaking operation. The wiretap transcripts are particularly revealing. They showed that Freeman accepted bets from the Bergen operation that he knew were lay-off bets, and furthermore, that Freeman exchanged line information with the operation. It can also be reasonably inferred from the transcripts that Freeman was conducting a betting operation of his own. In short, Freeman was not just an occasional and unknowing recipient of lay-off bets from the Bergen operation, but was sufficiently involved in the operation to have committed a violation of § 1955. *See United States v. Baker*, 589 F.2d 1008, 1013-14 (9th Cir. 1979).

Conclusion

The convictions are affirmed.

†

PROOF OF SERVICE BY MAIL

STATE OF CALIFORNIA)
) ss.
County of Orange)

I, the undersigned, say: I am and was at all times herein mentioned, a citizen of the United States and employed in the County of Orange, over the age of eighteen years and not a party to the within action or proceeding; that

My business address is 326½ Main Street, Huntington Beach, California 92648, that on MARCH , 1980, I served the within PETITION FOR WRIT OF CERTIORARI (FREEMAN vs. UNITED STATES) on the following named parties by depositing three copies thereof, enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Post Office in the City of Huntington Beach, California, addressed to said parties at the addresses as follows:

SOLICITOR GENERAL OF TEH UNITED STATES
U. S. Department of Justice
Washington, D. C. 20530

UNITED STATES ATTORNEY
FOR THE CENTRAL DISTRICT OF CALIFORNIA
U. S. Courthouse
312 North Spring Street
Los Angeles, California 90012

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March , 1980, at HUNTINGTON BEACH, CALIFORNIA.

D. A. Standefer

Original and 40 copies to the SUPREME COURT OF THE UNITED STATES via EXPRESS MAIL - marked "DEADLINE FILING DATE 3-14-80. DOCKET FEE ATTACHED TO ORIGINAL COPY.

Dean-Standefer, 326½ Main St., Huntington Beach, Ca. 92648
(714) 536-7161